

000FORM PTO-1390 U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE  
REV. 2/01T**TRANSMITTAL LETTER TO THE UNITED STATES  
DESIGNATED/ELECTED OFFICE (DO/EO/US)  
CONCERNING A FILING UNDER 35 U.S.C. 371**CUSTOMER NO. 22,852  
ATTORNEY'S DOCKET NUMBER

09401.0004

U.S. APPLICATION NO.  
(If known, see 37 CFR 1.53)**10/525373**

INTERNATIONAL APPLICATION NO.

**PCT/AU2003/001079**

INTERNATIONAL FILING DATE

**August 23, 2003**

PRIORITY DATE CLAIMED

**August 23, 2002**TITLE OF INVENTION: **NEBULIZING AND DRUG DELIVERY DEVICE**APPLICANT FOR DO/EO/US: **Vladimir SHEIMAN**

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☒ This is a **FIRST** submission of items concerning a filing under 35 U.S.C. 371.
2. ☐ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 U.S.C. 371.
3. ☐ This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below.
4. ☐ The US has been elected by the expiration of 19 months from the priority date (Article 31).
5. ☒ A copy of the International Application as filed (35 U.S.C. 371 (c)(2)).
  - a. ☒ is attached hereto (required only if not communicated by the International Bureau).
  - b. ☐ has been communicated by the International Bureau.
  - c. ☐ is not required, as the application was filed with the United States Receiving Office (RO/US).
6. ☐ An English language translation of the International Application as filed (35 U.S.C. 371 (c)(2)).
  - a. ☐ is attached hereto.
  - b. ☐ has been previously submitted under 35 U.S.C. 154 (d)(4).
7. ☒ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371 (c)(3)).
  - a. ☐ are attached hereto (required only if not communicated by the International Bureau).
  - b. ☐ have been communicated by the International Bureau.
  - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
  - d. ☒ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371 (c)(3)).
9. ☐ An oath or declaration of the inventor(s) (35 U.S.C. 371 (c)(4)).
10. ☐ An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371 (c)(5)).

**Items 11 to 20 below concern document(s) or information included:**

11. ☐ Information Disclosure Statement under 37 CFR 1.97 and 1.98
12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. ☐ A **FIRST** preliminary amendment.
14. ☐ A **SECOND** or **SUBSEQUENT** preliminary amendment.
15. ☐ A Substitute specification.
16. ☐ A change of power of attorney and/or address letter.
17. ☐ A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 35 U.S.C. 1.821-1.825.
18. ☐ A second copy of the published international application under 35 U.S.C. 154 (d)(4).
19. ☐ A second copy of the English language translation of the international application 35 U.S.C. 154 (d)(4).
20. ☒ Other items or information:
  - a. ☒ Copy of cover page of International Publication No. **WO 2004/017848 A1**
  - b. ☐ Copy of Notification of Missing Requirements.
  - c. ☒ Request for Substitution of Replacement Sheets.

U.S. APPLICATION NO. (If known, see 37CFR 1.5) <b>10/525373</b>		INTERNATIONAL APPLICATION NO. <b>PCT/AU2003/001079</b>		ATTORNEY'S DOCKET NUMBER <b>09401.0004</b>	
21. <input checked="" type="checkbox"/> The following fees are submitted: <b>BASIC NATIONAL FEE (37 CFR 1.492 (a) (1) - (5)):</b> <span style="float:right"><b>\$300.00</b></span> National Stage Search Fee..... <b>\$500.00</b> National Stage Examination Fee..... <b>\$200.00</b>  <div style="text-align:right;"><b>ENTER APPROPRIATE BASIC FEE AMOUNT = \$1000.00</b></div>				Applicant Use	Office Use Only
				\$300.00	
				\$500.00	
				\$200.00	
<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing or computer program listing filed in an electronic medium). The fee is \$250 for each additional 50 sheets of paper or fraction thereof.					
Total Sheets	Extra Sheets	Number of additional 50 or fraction thereof (rounded up to a whole number)	Rate		
40 - 100 =	/50=		x 250.00	\$	
Surcharge of \$130.00 for furnishing the oath or declaration later than months from the earliest claimed priority date (37 CFR 1.492 (e)). <span style="float:right"><input type="checkbox"/> 20 <input type="checkbox"/> 30</span>				\$	
CLAIMS	NUMBER FILED		NUMBER EXTRA	RATE	
Total Claims	24	- 20 =	4	x \$50.00	\$200.00
Independent Claims	4	-3 =	1	x \$200.00	\$200.00
<input checked="" type="checkbox"/> MULTIPLE DEPENDENT CLAIM(S) (if applicable)				+\$360.00	\$360.00
<b>TOTAL OF THE ABOVE CALCULATIONS =</b>				\$1760.00	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2.				\$	
<b>SUBTOTAL =</b>				\$1760.00	
Processing fee of \$130.00 for furnishing the English translation later than months from the earliest priority date (37 CFR 1.492(f)). <span style="float:right"><input type="checkbox"/> 20 <input type="checkbox"/> 30</span>				\$	
<b>TOTAL NATIONAL FEE =</b>				\$1760.00	
Fee for recording the enclosed assignment (37 CFR 1.21 (h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property.				\$	
<b>TOTAL FEES ENCLOSED =</b>				\$1760.00	
				Amount to be refunded:	\$
				charged:	\$
a. <input checked="" type="checkbox"/> A check in the amount of \$ <u>1760.00</u> to cover the above fees is enclosed. b. <input type="checkbox"/> Please charge my Deposit Account No. _____ in the amount of \$ _____ to cover the above fees. A duplicate copy of this sheet is enclosed. c. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. <u>06-0916</u> . A duplicate copy of this sheet is enclosed. d. <input type="checkbox"/> Fees are to be charged to a credit card. <b>WARNING:</b> Information on this form may become public. <b>Credit card information should not be included on this form.</b> Provide credit card information and authorization on PTO-2038.					
NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137 (a) or (b)) must be filed and granted to restore the application to pending status.					
SEND ALL CORRESPONDENCE TO: Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P. 1300 I Street, N.W. Washington, D.C. 20005-3315 EFC/FPD/sci DATED: February 23, 2005					
				<u>Charles E Van Han #40266</u> SIGNATURE Ernest F. Chapman/25,961 NAME/REGISTRATION NO.	

**ANNEXES TO THE PRELIMINARY EXAMINATION REPORT**  
**(ARTICLE 34 AMENDMENTS)**

**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, VA 22313-1450**

Sir:

**REQUEST FOR SUBSTITUTION OF REPLACEMENT SHEETS**

Please substitute the attached (1) replacement sheets 1-19 of the Article 34 Amendments for substitution sheets 1-21 of the specification in the enclosed as-filed PCT application and (2) replacement sheets 20-22 of the claims of the Article 34 Amendments for substitution sheets 22-30 of the claims in the enclosed as-filed PCT application. It is respectfully requested that the specification and claims in the substitute sheets be examined during examination of the patent application. Claims 1-17 are currently pending.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: February 23, 2005

By: Charles E Van Horn #40266  
for Ernest F. Chapman  
Reg. No. 25,961

EFC/FPD/sci